

REMARKS / ARGUMENTS

The present application includes pending claims 1-31, all of which have been rejected. The Applicant respectfully submits that the claims define patentable subject matter.

Claims 1-31 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Application Publication No. 2002/0104099, issued to Novak (hereinafter, Novak). The Applicant respectfully traverses these rejections at least for the reasons previously set forth during prosecution and at least based on the following remarks.

I. Examiner's Response to Arguments

The Examiner states the following in the Final Office Action:

Applicant's arguments regarding the limitations of "determining a schedule for presenting said one or both of personal media and/or broadcast media in said media channel" and **"presenting a schedule which includes personal and/or broadcast media, in a media guide"** are moot in view of new grounds of rejection.

See the Final Office Action at page 6 (emphasis added). The Applicant points out that the above bolded language is an incorrect quote from Applicant's claim 1. The correct claim limitation is "presenting, at a first geographic location, said schedule comprising said one or both of personal media and/or broadcast media in a media guide." The Applicant has responded to Examiner's new grounds of rejection in Section III below.

II. Double Patenting

Claims 1, 11, and 21 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 11, and 21 of co-pending application № 10/675,467. The Applicant is submitting herewith a terminal disclaimer to overcome the double patenting rejection.

REJECTION UNDER 35 U.S.C. § 102

III. Novak Does Not Anticipate Claims 1-31

The Applicant now turns to the rejection of claims 1-31 under 35 U.S.C. 102(e) as being anticipated by Novak. With regard to the anticipation rejections under 102, MPEP 2131 states that “[a] claim is anticipated only if **each and every element** as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” See Manual of Patent Examining Procedure (MPEP) at 2131 (internal citation omitted). Furthermore, “[t]he identical invention must be shown in as complete detail as is contained in the ... claim.” See *id.* (internal citation omitted).

Without conceding that Novak qualifies as a prior art under 35 U.S.C. § 102(e), the Applicant traverses the rejection as follows.

A. Rejection of Independent Claims 1, 11, and 21 under 35 U.S.C. § 102(e)

With regard to the rejection of independent claim 1 under 35 U.S.C. § 102(e), the Applicant submits that Novak does not disclose or suggest at least the limitation of “presenting, at a first geographic location, said schedule comprising said one or both of personal media and/or broadcast media in a media guide,” as recited by the Applicant in independent claim 1.

The Final Office Action states the following:

In reference to Claim 1, Novak teaches a method of customizing a channel interface (shown in Figure 11 as described in Paragraphs [0078-0086]), the method comprising: determining one or both of personal media and/or broadcast media that is to be presented in a media channel ("broadcast" or "synthetic" channel of Figure 8 as described in Paragraph [0071]); determining a schedule for presenting one or both of personal media and/or broadcast media (block 1108 of Figure 11 as described in Paragraph [0079], with further reference to Paragraph [0064]) in the media channel; and presenting, at a first geographic location (upload source 122, as described in Paragraph [56]), the schedule comprising the one or both of personal media and/or broadcast media in a media guide (block 1116 of Figure 11 as described in Paragraph [0086], with further reference to block 1112 as described in Paragraph [0084]), wherein the media channel may be pushed from the first geographic location to a second geographic location (step 1104 to step 1110 of Figure 11, as described in Paragraphs [78]-[80] and with further reference to Paragraph [75] describing operations of "second location" STS 152).

See the Final Office Action at page 10 (emphasis added). In page 4 of the Final Office Action, **the Examiner has equated Applicant’s “first geographic location” to the location of Novak’s upload source 122.** Furthermore, the Examiner has equated

Applicant's "second geographic location" to the location of Novak's set-top-box (STB) 152. Assuming for the sake of argument that a media channel may be pushed from source 122 (equated by the Examiner to "the first geographic location") to STB 152 (equated by the Examiner to "a second geographic location"), the Examiner's argument is still deficient. More specifically, the relevant claim limitation is "presenting, at a first geographic location, ... a media guide," as recited in Applicant's claim 1. However, **Novak discloses that the media guide (or EPG 153) is only displayed at the location of the STB 152 (equated by the Examiner to "a second geographic location"). Novak simply does not disclose that any media guide is presented at the source 122 (equated by the Examiner to "the first geographic location").**

Therefore, the Applicant maintains that Novak does not disclose or suggest at least the limitation of "presenting, at a first geographic location, said schedule comprising said one or both of personal media and/or broadcast media in a media guide," as recited by the Applicant in independent claim 1.

Accordingly, independent claim 1 is not anticipated by Novak and is allowable. Independent claims 11 and 21 are similar in many respects to the method disclosed in independent claim 1. Therefore, the Applicant submits that independent claims 11 and 21 are also allowable over the references cited in the Office Action at least for the reasons stated above with regard to claim 1.

B. Rejection of Dependent Claims 2-10, 12-20, and 22-31

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1, 11, and 21 under 35 U.S.C. § 102(e) as being anticipated by Novak has been overcome and requests that the rejection be withdrawn. Additionally, claims 2-10, 12-20, and 22-31 depend from independent claims 1, 11, and 21, respectively, and are, consequently, also respectfully submitted to be allowable.

The Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 2-10, 12-20, and 22-31.

In general, the Final Office Action makes various statements regarding claims 1-31 and the cited reference that are now moot in light of the above. Thus, the Applicant will not address such statements at the present time. However, the Applicant expressly reserves the right to challenge such statements in the future should the need arise (e.g., if such statement should become relevant by appearing in a rejection of any current or future claim).

CONCLUSION

Based on at least the foregoing, the Applicant believes that all claims 1-31 are in condition for allowance. If the Examiner disagrees, the Applicant respectfully requests a telephone interview, and requests that the Examiner telephone the undersigned Attorney at (312) 775-8176.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

A Notice of Allowability is courteously solicited.

Respectfully submitted,

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